

Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests of hearing and petitions for leave to intervene is discussed below.

By June 7, 1995, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practices for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specific requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention:

Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Herbert N. Berkow: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated June 13, 1994, as supplemented by letters dated August 15, 1994, March 23 and April 18, 1995, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina.

Dated at Rockville, Maryland, this 3rd day of May 1995.

For the Nuclear Regulatory Commission.

**Victor Nerses,**

*Project Manager, Project Directorate II-2,  
Division of Reactor Projects—I/II, Office of  
Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35660; File No. SR-Amex-95-09]

### Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Entry of Market-at-the Close Orders

May 2, 1995.

On February 22, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt new Commentary .02 to Exchange Rule 109 to require members entering market-at-the-close ("MOC") orders through the Exchange's order routing systems, Post Execution Reporting ("PER") or Amex Options Switching ("AMOS"),<sup>3</sup> to do so by no later than 3:50 p.m.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35492 (Mar. 15, 1995), 60 FR 14985 (Mar. 21, 1995). No comments were received on the proposal.

The Amex Rule 109(d) sets forth the procedures for executing MOC orders.<sup>4</sup> Under Rule 109, a member must execute MOC orders in a stock where the member is holding simultaneously both buy and sell MOC orders in accordance with certain procedures. Where there is an imbalance between the buy and sell MOC orders, a member at the close of trading must execute the imbalance of buy orders against the offer and imbalance of sell orders against the bid. The member must then stop the remaining buy and sell orders against each other and pair them off at the price of the immediately preceding sale. The member must report the paired off transactions to the consolidated last sale reporting system as "stopped stock."

In situations where there is no imbalance between the buy and sell MOC orders, the buy and sell orders are

stopped against each other and paired off at the price of the last sale on the Exchange just before the close of trading in that stock on that day. The transaction must be reported to the consolidated reporting system as stopped stock.

At the present time, members may enter MOC orders until 4:00 p.m. when trading closes. Members may enter MOC orders through the Exchange's order routing systems, PER and AMOS, or manually through a floor broker to the specialists.

The Exchange proposes to amend Amex Rule 109 by adopting new Commentary .02, which would impose a 3:50 p.m. deadline for the entry, cancellation, or reduction of all MOC orders through the PER or AMOS systems. Thereafter, a member may only enter, modify, and cancel MOC orders through other means than the Exchange's order routing systems.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>5</sup> The Commission believes that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

The Commission has been aware for several years that the use of composite-asset trading techniques and strategies has increased substantially, which has prompted the need to establish greater price certainty at the close.<sup>6</sup> The Commission believes that the Exchange's proposed rule change will assist specialists in ascertaining the closing price<sup>7</sup> of a security in a timely manner by providing specialists with a reasonable period to assess whether there is an imbalance of MOC orders, and to pair off MOC buy and sell orders, entered through the Exchange's automated routing systems. Unlike other orders, MOC orders do not appear on the specialist's electronic book and specialists must process the orders

manually.<sup>8</sup> Therefore, on days where there is heavy volume of MOC orders, the execution of MOC orders and, in turn, the determination of the closing price, may be delayed under the current practice. The Commission believes that the extra time allotted under the proposal should allow specialists to effectuate an orderly closing in stocks by alleviating the problem of MOC orders being entered through the Amex automated systems so close to the 4:00 p.m. deadline that the specialists cannot execute the MOC transactions and determine the closing price until after the close.<sup>9</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-Amex-95-09) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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[Release No. 34-35657; File No. SR-NASD-95-13]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Cold Calling Requirements

May 1, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 10, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to

<sup>8</sup> Telephone conversation with Stuart Diamond, Director, Rulings Department, Amex, and Jennifer S. Choi, SEC, on April 19, 1995.

<sup>9</sup> Under the proposed rule change, members may continue to enter, cancel, or modify MOC orders manually until 4:00 p.m. MOC orders that are manually brought to the specialist post by a floor broker are less likely to delay the specialist's processing of the MOC orders because a floor broker has the discretion not to place a MOC order when an imbalance of buy and sell MOC orders has affected the price of a stock. Under the proposed rule change, a specialist would be able to process MOC orders entered through the Exchange's automated routing system soon after the 3:50 deadline and negotiate with a floor broker when there is an imbalance between the MOC buy and sell orders.

<sup>10</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>11</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

<sup>3</sup> Although there is no specific Amex rule describing the types of orders that AMOS may accept, it has been the practice of the Exchange to allow AMOS to accept MOC options orders. Telephone conversation with Stuart Diamond, Director, Rulings Department, Amex, and Linda Tarr, Special Counsel, Amex, and Jennifer Choi, Attorney, SEC, on May 1, 1995.

<sup>4</sup> A market-at-the-close order is a market order that is to be executed at or as near to the close as practicable. See *American Stock Exchange Guide*, Rule 131(e), (CCH) ¶ 9281.

<sup>5</sup> 15 U.S.C. 78f(b) (1988 & Supp. v. 1993).

<sup>6</sup> See Securities Exchange Act Release No. 31610 (Dec. 16, 1992), 57 FR 61131 (Dec. 23, 1992) (File No. SR-Amex-92-34) (permanently approving procedures to execute MOC orders on every trading day).

<sup>7</sup> The closing price is the price at which the MOC orders were executed. telephone conversation with Stuart Diamond, Director, Rulings Department, Amex, and Linda Tarr, Special Counsel, Amex, and Glen Barrentine and Jennifer Choi, SEC, on March 7, 1995.